

J. Noah Hagey, Esq. (SBN: 262331)
hagey@braunhagey.com
Matthew Borden, Esq. (SBN: 214323)
borden@braunhagey.com
David H. Kwasniewski, Esq. (SBN: 281985)
kwasniewski@braunhagey.com
Robert Petraglia, Esq. (SBN: 264849)
petraglia@braunhagey.com
H. Chelsea Tirgardoorn, Esq. (SBN: 340119)
tirgardoorn@braunhagey.com
Eric Schlabs, Esq. (*pro hac vice*)
schlabs@braunhagey.com
BRAUNHAGEY & BORDEN LLP
351 California Street, 10th Floor
San Francisco, CA 94104
Telephone: (415) 599-0210
Facsimile: (415) 276-1808

ATTORNEYS FOR PLAINTIFF
B&G FOODS NORTH AMERICA, INC.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

B&G FOODS NORTH AMERICA, INC.,
Plaintiff,
v.
KIM EMBRY and ENVIRONMENTAL
HEALTH ADVOCATES, INC., acting as
enforcement representatives under California
Proposition 65 on behalf of the State of
California,
Defendants.

Case No. 2:20-cv-00526-KJM-DB

**B&G FOODS NORTH AMERICA,
INC.'S NOTICE OF MOTION AND
MOTION TO COMPEL *IN CAMERA*
REVIEW OF PRIVILEGED
DOCUMENT CLAWED BACK BY
DEFENDANTS**

Date: February 23, 2024
Time: 10:00 AM

Magistrate Judge: Hon. Deborah Barnes
Courtroom: 27

SAC Filed: November 23, 2022
Trial Date: None Set

NOTICE OF MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on February 23, 2024 at 10:00 a.m. in Courtroom 27 of the United States District Court, Eastern District of California, located at 501 I Street, Sacramento, CA 95814, a hearing will be held on the discovery disagreement between Plaintiff B&G Foods North America, Inc. (“B&G Foods”) and Defendants Environmental Health Advocates, Inc. (“EHA”) and Kim Embry (collectively, “Defendants”). The matters for the hearing include whether Defendants should be compelled to produce a spreadsheet they clawed back on December 29, 2023 for *in camera* review. The spreadsheet was initially produced by third party IEH (Defendants’ test laboratory). Defendants claim that the “privileged spreadsheet was inadvertently attached to an email Mr. [Noam] Glick sent to IEH on November 18, 2020” and that “Mr. Glick intended to send an entirely different spreadsheet dealing with the subject matter of the email.”

The specifics of the parties’ dispute and the parties’ respective contentions are detailed in the forthcoming Joint Statement.

Dated: January 17, 2024

Respectfully submitted,

BRAUNHAGEY & BORDEN LLP

By:



Matthew Borden

*Attorneys for Defendant
B&G Foods North America, Inc.*

MOTION TO COMPEL

Plaintiff B&G Foods North America, Inc. (“B&G Foods”) hereby moves the Court for an order compelling Defendants to produce a spreadsheet they clawed back on December 29, 2023 for *in camera* review. The spreadsheet was initially produced by third party IEH (Defendants’ test laboratory). Defendants claim that the “privileged spreadsheet was inadvertently attached to an email Mr. [Noam] Glick sent to IEH on November 18, 2020” and that “Mr. Glick intended to send an entirely different spreadsheet dealing with the subject matter of the email.”

The Motion is based on the forthcoming Joint Statement regarding Discovery Disagreement and supporting papers and the entire record herein.

Dated: January 17, 2024

Respectfully Submitted,

BRAUNHAGEY & BORDEN LLP

By: 

Matthew Borden

*Attorneys for Plaintiff
B&G Foods North America, Inc.*